

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROB RINDE f/k/a ROBERT LARRY LEROY
PITSOR, JR.

Plaintiff,

vs.

THE CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation
sole, aka the "MORMON CHURCH" THE
CHURCH OF JESUS CHRIST OF LATTER-
DAY SAINTS, an unincorporated association,

Defendant.

NO. 2:06-CV-00556TSZ

DECLARATION OF TIMOTHY D.
KOSNOFF RE: MOTION TO AMEND
COMPLAINT TO CLARIFY STATUS OF
DEFENDANTS AND MOTION TO
REMAND

NOTED FOR: FRIDAY, MAY 26, 2006

TIMOTHY D. KOSNOFF, being first duly sworn on oath, states as follows:

1. I am one of the attorneys for the plaintiff in this matter; I make this declaration based on my own personal knowledge.

2. In filing this action, I intended to name two defendants – The Corporation of the President of the Church of Jesus Christ of Latter-day Saints **and** the Mormon Church itself. I believe I accomplished that goal in preparing and filing the original Complaint.

KOSNOFF DECL. RE: MOTION TO AMEND/REMAND - 1 of 3
(2:06-CV-00556TSZ)
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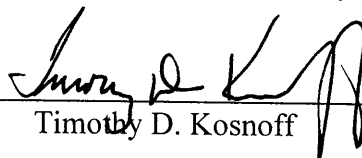
1 However, to the extent the Complaint needs to be clarified, I have done so in the proposed
2 Amended Complaint, a copy of which is attached hereto as **Exhibit A**. For the Court and
3 counsel's reference a "red-lined" version of the proposed Amended Complaint is attached
4 hereto as **Exhibit B**.

5 3. I was one of the counsel for the plaintiff in the case of *Jeremiah Scott v.*
6 *Corporation of the presiding Bishop of he Church of Jesus Christ of Latter-day Saints, et al.*,
7 U.S.D.C., District of Oregon, Cause No. 98-366AA. One of the current defendants, The
8 Corporation of the President of the Church of Jesus Christ of Latter-day Saints, was a
9 defendant in that action.

10 4. In the Oregon action, the "Church Defendants" (including the of the
11 Corporation of President of the Church of Jesus Christ of Latter-day Saints) moved for a
12 judicial determination of diversity jurisdiction. Multiple documents were exchanged relating
13 to the motion. In the interest of brevity, all documents are not attached to this declaration.
14 However, one of the documents I received from defendant's counsel was entitled the "Church
15 Defendants' Reply on their Motion for Determination of Diversity Jurisdiction." I received a
16 copy of that document directly from the defendant's at the time of filing and in the ordinary
17 course of business. A true and correct copy of the document is attached hereto as **Exhibit C**.

18
19 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
20 TRUE AND CORRECT.

21
22 DATED at Seattle, Washington, this 16th day of May, 2006.

23
24 
25 Timothy D. Kosnoff
26

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on May 16, 2006, I electronically filed the foregoing
**DECLARATION OF TIMOTHY D. KOSNOFF RE: MOTION TO AMEND
COMPLAINT TO CLARIFY STATUS OF DEFENDANTS AND MOTION TO
REMAND** with the Clerk of the Court using the CM/ECF system which will send
notification of such filing to the following:

Charles C. Gordon cgordon@gmtlaw.com Jeffrey I. Tilden jtilden@gmtlaw.com 1001 Fourth Avenue, Suite 4000 Seattle, WA 98154 PH: 206.467.6477 FX: 206.467.6292	
---	--

DATED this 16th day of May, 2006.

/s/Nicole Calvert
Nicole Calvert
Legal Assistant to Michelle A. Menely

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROB RINDE f/k/a ROBERT LARRY LEROY
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Defendants.

NO. 2:06-CV-00556TSZ

AMENDED COMPLAINT

I. GENERAL ALLEGATIONS

This case alleges child sexual abuse, sexual assault and sexual battery, intentional infliction of emotional distress (aka the Tort of "Outrage"), civil conspiracy, fraudulent concealment and gross negligence. It arises out of the brutal victimization of plaintiff when he was twelve years old by PAUL H. LEWIS, a Mormon Church Scoutmaster and

AMENDED COMPLAINT - 1 of 10
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1 Melchiesidek priest. LEWIS sodomized plaintiff, beat and choked him and forced a wire coat
2 hangar up his penis inflicting permanent injury to his urogenital system that resulted in
3 excruciating physical and emotional pain that persists to this day. When he was
4 approximately fourteen years old Plaintiff disclosed the abuse to civil authorities. Three
5 church officials, including one who was a Seattle attorney, a Bellevue ward bishop and
6 another local church leader knowing that plaintiff's accusations were true pressured plaintiff
7 into not cooperating with law enforcement officials who were investigating LEWIS. These
8 church officials acted as part of a coordinated effort to shield fellow priest LEWIS from the
9 law and to protect the Mormon Church from scandal and civil liability.

10 II. PARTIES

11 2.1 Plaintiff ROB RINDE, (known as Larry Pitsor at relevant times), is an adult
12 and at all times relevant hereto was a boy residing with his mother and siblings first in Seattle,
13 and then in Bellevue, Washington. Plaintiff was born December 8, 1969. ROB RINDE, his
14 mother and his four siblings were recruited into the Church of Jesus Christ of Latter-day
15 Saints (hereinafter the "Mormon Church").

16 2.2 Defendant THE CORPORATION OF THE PRESIDENT OF THE CHURCH
17 OF JESUS CHRIST LATTER-DAY SAINTS, a Utah corporation sole, is a corporation duly
18 organized and operating pursuant to the laws of Utah. This defendant also operates as the
19 "MORMON CHURCH" THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS,
20 which is an unincorporated association. This defendant will hereinafter be referred to as
21 COP. COP operates churches within the State of Washington.

22 2.3 Defendant the "MORMON CHURCH" THE CHURCH OF JESUS CHRIST
23 OF LATTER-DAY SAINTS, is an unincorporated association. This defendant will
24 hereinafter be referred to as the "Mormon Church." The Mormon Church operates churches
25 within the State of Washington.
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III. JURISDICTION AND VENUE

3.1 Jurisdiction and venue are proper in this Court because the acts giving rise to this claim occurred in Bellevue, King County, Washington.

IV. FACTS

4.1 "COP" is a corporation governed by a single individual, the President of the Mormon Church, Gordon B. Hinckley. The President wields ultimate and absolute authority within the Mormon Church. Mr. Hinckley, is the "Divine Prophet, Seer and Revelator" of the Church and has the authority to appoint and remove anyone in the Mormon Church, including all members of wards and stakes, at will. The President of the Mormon Church controls everything in the Mormon Church and all of its wards and stakes. As such, the President of the Church has authority to dictate changes in Church policy, discipline, ecclesiastical doctrine or anything else he so chooses. The acts of the President, in his capacity as head of the Mormon Church, are the acts of COP. COP is registered to do business within, and conducts continuous and systematic activities within, the State of Washington. At all relevant times, plaintiff was a member of and attended a Seattle and/or a Bellevue ward of the Mormon Church.

4.2 Adult male members of the Church are eligible to be ordained as "Priests." There are various levels of priesthood, including elevation to the rank of "Elder," "Melchisedek Priest," "High Priest." Elders, Melchisedek Priests and High Priests are held out by the Mormon Church as men that are "morally worthy" and deserving of the trust of its members.

4.3 At all relevant times, COP and the Mormon Church assumed special responsibilities toward its members including a disciplinary and red-flagging system meant to identify and track sexual predators and other dangerous individuals within the membership in order to protect innocent members from harm they might inflict.

1 4.4 The Mormon Church itself ^{is} ~~are~~ closely affiliated with the Boy Scouts of
2 America. The Mormon Church is the oldest and one of the largest sponsoring organizations
3 of boy scouting in the United States. Since 1913 the Mormon Church has used the Scouting
4 program as an integral part of its ministry to boys and young men. Scouting is the exclusive
5 youth activity for males in the Mormon Church.

6 4.5 During the relevant time period, COP and the Mormon Church adopted
7 guidelines for handling victims of child sexual abuse and sex offenders. They failed to follow
8 their guidelines with respect to LEWIS.

9 4.6 During the approximate time period of 1981-1983, when RINDE was around
10 twelve years old, LEWIS was RINDE's ward scoutmaster. At that time LEWIS was in the
11 United States Navy and was a transient with no ties or history to the area prior to the church
12 placing LEWIS in the position of Scoutmaster of a Seattle ward to which RINDE was a
13 member.

14 4.7 Using his position of authority as Scoutmaster and Mormon Priest, LEWIS
15 was able to gain access to RINDE and use that access to groom and then molest, rape and
16 sadistically torture him.

17 4.8 LEWIS sexually molested RINDE at various locations in the Seattle area
18 including at an apartment to which LEWIS had unrestricted access, in the swimming pool,
19 locker room/shower and steam bath at Sand Point Naval Air Station, and in a motel room in
20 Issaquah.

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22 approximately 1983. LEWIS used physical violence against RINDE, sodomizing him and
23 forcing RINDE to orally copulate LEWIS. LEWIS then took a wire coat hanger and forced it
24 into RINDE's urethra causing him to hemorrhage and causing chronic and irreparable injury
25 to his penis and urogenital system. These were acts of childhood sexual abuse, which acts
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1 were also violations of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect
2 at the time the acts were committed.

3 4.10 In approximately 1984 or 1985, RINDE disclosed the abuse and his mother
4 reported it to the civil and church authorities. A criminal investigation of LEWIS ensued.
5 Church officials described herein above shielded LEWIS from the law. The same church
6 officials urged RINDE, then age fourteen (14), to not cooperate with the law enforcement
7 investigation of LEWIS thereby allowing LEWIS to evade criminal prosecution and to move
8 to another state where he eventually sexually molested more children. These church officials
9 told him that he would not be believed, that it would be "his word" against LEWIS, that his
10 allegations would hurt the image and reputation of the Mormon Church, that RINDE would
11 be ridiculed and derided by church members in addition to other comments calculated to
12 intimidate RINDE from cooperating with the civil authorities investigating LEWIS.

13 4.11 Church leaders told RINDE that the church would "take care of things," that
14 they would help him with therapy and that they would help his family financially.

15 4.12 An abuse victim advocate in the King County Prosecutor's office arranged a
16 meeting with RINDE at her office. Before she could meet privately with RINDE, Mormon
17 Church leaders interfered in the investigative process. The three adult male Church officials
18 went to RINDE'S home and told him that they would take him to the meeting at the
19 prosecutor's office downtown. On the ride downtown in the car the three adult Mormon
20 church officials pressured RINDE not to cooperate with law enforcement officials.

21 4.13 At the meeting, the church official that was a licensed Washington attorney
22 told the victim's advocate that he was RINDE'S attorney which was untrue. The church
23 official/lawyer told the victim advocate he would not permit her to interview RINDE in
24 private.
25
26

1 4.14 RINDE succumbed to the Church's pressure not to cooperate. As a result,
2 charges against LEWIS were not filed. Soon thereafter LEWIS moved to another state and
3 joined a another ward of the Mormon Church.

4 **V. FIRST CAUSE OF ACTION**
5 **(Negligence based on Common Law and breach of Fiduciary Duty)**

6 5.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under
7 this count and further alleges:

8 5.2 Defendants COP and the Mormon Church each had a common law duty to
9 plaintiff to protect him from the criminal acts of LEWIS.

10 5.3 Defendants COP and the Mormon Church each breached their duty to protect
11 plaintiff and plaintiff was damaged thereby.

12 5.4 Defendants COP and the Mormon Church had a "special relationship" with
13 plaintiff and with LEWIS. They knew or should have known that LEWIS was a sadistic serial
14 pedophile that was actively abusing children, COP and the Mormon Church each had a duty
15 to use reasonable care in the hiring, supervision or retention of LEWIS as scoutmaster and
16 also had a duty to warn or protect foreseeable victims including plaintiff. LEWIS' positions
17 within the defendants' church were causally connected to and served to enable LEWIS to gain
18 access to and abuse plaintiff.

19 5.5 The Mormon Church's bishops, stake presidents and Boy Scout leaders within
20 the State of Washington breached both a duty of reasonable care in hiring, supervising or
21 retaining LEWIS as scoutmaster and by failing to warn or protect children and/or by failing to
22 report their knowledge of LEWIS's sexual abuse of children to civil authorities,.

23 5.6 But for the breach of duty, acts, omissions and intentional misconduct of COP
24 and the Mormon Church, church bishops, boy scout leaders, stake presidents and area
25 presidents, LEWIS would not have been able to abuse plaintiff.

1 5.7 COP's failure to adhere to its previously adopted guidelines for handling
2 victims of child sexual abuse and sex offenders caused harm to the plaintiff. The harm
3 plaintiff suffered as a result of defendants' negligence was the harm contemplated in COP's
4 Handbook of Instruction to its clergy.

5 5.8 Notwithstanding Defendants' duties, defendant failed to train and supervise its
6 hierarchal clergy in the proper implementation of its guidelines, policies and procedures
7 regarding the treatment of victims of child sexual abuse, to monitor and insure compliance
8 with their guidelines, policies and procedures, treatment of child sexual abusers and reporting
9 of child sexual abuse.

10 5.9 Defendants knew, or in the exercise of reasonable care should have known,
11 that their failure to report LEWIS to appropriate law enforcement or social services agencies
12 would result in LEWIS sexually abusing children including plaintiff, and in plaintiff failing to
13 obtain adequate treatment.

14 5.10 As a result of the molestation, breach of trust, and statutory violations, plaintiff
15 has suffered and will continue to suffer physical and emotional pain and dysfunction to his
16 general, non-economic damage in an amount to be determined. As a further result of the
17 sexual abuse, plaintiff incurred and/or will continue to incur costs for counseling and
18 psychological treatment, and has lost earning capacity to his damage in an amount to be
19 proved at trial.

20
21 **VI. SECOND CAUSE OF ACTION**
22 **(Intentional Infliction of Emotional Distress)**

23 6.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under
24 this count and further allege:

25 6.2 Defendants knew, or in the exercise of reasonable care should have known,
26 that tampering with a witness was unlawful and that such conduct as pressuring victims not to

1 disclose, would be harmful to the best interests and psychological well-being of child victims
2 of sexual abuse, including plaintiff.

3 6.3 Defendants knew or should have known that pressuring plaintiff not to
4 cooperate with the civil authorities' investigation of LEWIS would greatly exacerbate
5 plaintiff's physical, emotional and psychological injuries and, in fact, the defendants' conduct
6 greatly exacerbated plaintiff's physical, emotional and psychological injuries.

7 6.4 Defendant knew that plaintiff had been subjected to horrific sexual abuse at the
8 hands of its Scoutmaster and Melchesidek Priest PAUL LEWIS and knew that plaintiff had
9 and would continue to suffer emotional, psychological and physical injuries and that unless he
10 received appropriate assistance from civil authorities, that his injuries would be greatly
11 exacerbated and much more difficult to treat with the passage of time.

12 6.5 The Church, being more concerned about shielding itself from scandal and
13 potential civil liability and intent on protecting the public image of its all-male Mormon
14 priesthood at the expense of aiding a gravely injured child that was plaintiff, pressured
15 plaintiff in to not cooperating with the civil authorities with full knowledge of or with reckless
16 disregard of the emotional and psychological injuries its conduct was certain to inflict.

17 6.6 Defendants' conduct was an outrageous violation of societal norms and went so
18 far beyond all possible bounds of decency, so as to be regarded as atrocious, and utterly
19 intolerable in a civilized community, and resulted in severe emotional distress.

20 6.7 As a further result of the defendants' intentional conduct, plaintiff has incurred
21 and/or will continue to incur costs for counseling and psychological treatment, and has lost
22 earning capacity to his damage in an amount to be proved at trial. As a result of the
23 defendants' conduct, plaintiff has suffered and will continue to suffer physical and emotional
24 pain and dysfunction to his general, non-economic damage in an amount to be proved at trial.
25
26

**VII. THIRD CAUSE OF ACTION
(Estoppel and Fraudulent Concealment)**

7.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count and further allege:

7.2 The Church defendants, and each of them, engaged in a plan of action to cover up incidents of the sexual abuse of minors by its Melchisedek priests and scout leaders and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to report incidents of abuse to law enforcement or child protection agencies, denial of abuse it had substantiated, the transfer of abusive Melchisedek priests and scoutmasters, coercion of victims and their families and by failure to seek out and redress the injuries these men had caused. Based on these actions, the defendants engaged in fraudulent concealment and are estopped from asserting defense of limitations.

**VIII. FOURTH CAUSE OF ACTION
(Civil Conspiracy)**

8.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count and further allege:

8.2 Defendants and others conspired to cover up incidents of sexual abuse of minors by its Mormon priests and scout leaders, including LEWIS and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to report incidents of abuse to law enforcement or child protection agencies, denial of abuse it had substantiated, aiding criminal child molesters in evading detection, arrest and prosecution, allowing them to cross state and international borders for purposes of gaining access to uninformed parents whose innocent children could be sexually abused, failure to warn, and by failure to seek out and redress the injuries its Melchisedek priests and scoutmasters had caused. Based on these actions, the defendants conspired for the unlawful purpose of concealing and suppressing information on the danger and threat that scoutmaster and priests like LEWIS posed to unsuspecting children, including the plaintiff.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter a judgment against both defendants, jointly and severally, and in plaintiff's behalf, for the following:

1. For special damages for medical treatment expenses, lost earnings, and lost earnings capacity, and the expenses of medication and other special expenses, both in the past and continuing into the future, in amounts to be determined at the time of trial;

2. For all general damages, for physical, mental and emotional injury and disturbance, and other disorders resulting from the acts complained of herein;

3. For attorney's fees, prejudgment interest, costs and exemplary damages allowed by RCW 9.68A.130 and other law; and

4. For such other and further relief as this Court determines just in the premises.

Dated this _____ day of May, 2006.

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP

By: _____
Michael T. Pfau, WSBA No. 24649
mpfau@gth-law.com
Michelle A. Menely, WSBA No. 28353
mmenely@gth-law.com
Co-Counsel for Plaintiff

LAW OFFICES OF TIMOTHY D. KOSNOFF

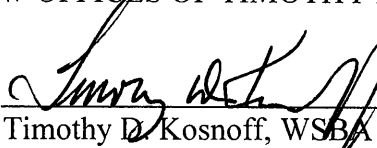
By:  _____
Timothy D. Kosnoff, WSBA No. 16586
timkosnoff@comcast.net
Co-Counsel for Plaintiff

EXHIBIT B

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AMENDED COMPLAINT

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Melchisedek priest. LEWIS sodomized plaintiff, beat and choked him and forced a wire coat hanger up his penis inflicting permanent injury to his urogenital system that resulted in excruciating physical and emotional pain that persists to this day. When he was approximately fourteen years old Plaintiff disclosed the abuse to civil authorities. Three church officials, including one who was a Seattle attorney, a Bellevue ward bishop and another local church leader knowing that plaintiff's accusations were true pressured plaintiff into not cooperating with law enforcement officials who were investigating LEWIS. These church officials acted as part of a coordinated effort to shield fellow priest LEWIS from the law and to protect the Mormon Church from scandal and civil liability.

II. PARTIES

2.1 Plaintiff ROB RINDE, (known as Larry Pitsor at relevant times), is an adult and at all times relevant hereto was a boy residing with his mother and siblings first in Seattle, and then in Bellevue, Washington. Plaintiff was born December 8, 1969. ROB RINDE, his mother and his four siblings were recruited into the Church of Jesus Christ of Latter-day Saints (hereinafter the "Mormon Church").

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3 boy scouting in the United States. Since 1913 the Mormon Church has used the Scouting
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5 youth activity for males in the Mormon Church.

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7 guidelines for handling victims of child sexual abuse and sex offenders. They failed to follow
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10 twelve years old, LEWIS was RINDE's ward scoutmaster. At that time LEWIS was in the
11 United States Navy and was a transient with no ties or history to the area prior to the church
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19 locker room/shower and steam bath at Sand Point Naval Air Station, and in a motel room in
20 Issaquah.

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26

AMENDED COMPLAINT - 5 of 10
(2:06-CV-00556TSZ)
[original complaint.doc]

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1 4.14 RINDE succumbed to the Church's pressure not to cooperate. As a result,
 2 charges against LEWIS were not filed. Soon thereafter LEWIS moved to another state and
 3 joined a another ward of the Mormon Church.

4 **V. FIRST CAUSE OF ACTION**
 5 **(Negligence based on Common Law and breach of Fiduciary Duty)**

6 5.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under
 7 this count and further alleges:

8 5.2 Defendants COP and the Mormon Church each had a common law duty to
 9 plaintiff to protect him from the criminal acts of LEWIS.

10 5.3 Defendants COP and the Mormon Church each breached their duty to protect
 11 plaintiff and plaintiff was damaged thereby.

12 5.4 Defendants COP and the Mormon Church had a "special relationship" with
 13 plaintiff and with LEWIS. They knew or should have known that LEWIS was a sadistic serial
 14 pedophile that was actively abusing children, COP and the Mormon Church each had a duty
 15 to use reasonable care in the hiring, supervision or retention of LEWIS as scoutmaster and
 16 also had a duty to warn or protect foreseeable victims including plaintiff. LEWIS' positions
 17 within the defendants' church were causally connected to and served to enable LEWIS to gain
 18 access to and abuse plaintiff.

19 5.5 The Mormon Church's bishops, stake presidents and Boy Scout leaders within
 20 the State of Washington breached both a duty of reasonable care in hiring, supervising or
 21 retaining LEWIS as scoutmaster and by failing to warn or protect children and/or by failing to
 22 report their knowledge of LEWIS's sexual abuse of children to civil authorities,.

23 5.6 But for the breach of duty, acts, omissions and intentional misconduct of COP
 24 and the Mormon Church, church bishops, boy scout leaders, stake presidents and area
 25 presidents, LEWIS would not have been able to abuse plaintiff.

26
 AMENDED COMPLAINT - 6 of 10
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1 5.7 COP's failure to adhere to its previously adopted guidelines for handling
 2 victims of child sexual abuse and sex offenders caused harm to the plaintiff. The harm
 3 plaintiff suffered as a result of defendants' negligence was the harm contemplated in COP's
 4 Handbook of Instruction to its clergy.

Deleted: defendant's

5 5.8 Notwithstanding Defendants' duties, defendant failed to train and supervise its
 6 hierarchal clergy in the proper implementation of its guidelines, policies and procedures
 7 regarding the treatment of victims of child sexual abuse, to monitor and insure compliance
 8 with their guidelines, policies and procedures, treatment of child sexual abusers and reporting
 9 of child sexual abuse.

Deleted: Defendant's

10 5.9 Defendants knew, or in the exercise of reasonable care should have known,
 11 that their failure to report LEWIS to appropriate law enforcement or social services agencies
 12 would result in LEWIS sexually abusing children including plaintiff, and in plaintiff failing to
 13 obtain adequate treatment.

Deleted: its

14 5.10 As a result of the molestation, breach of trust, and statutory violations, plaintiff
 15 has suffered and will continue to suffer physical and emotional pain and dysfunction to his
 16 general, non-economic damage in an amount to be determined. As a further result of the
 17 sexual abuse, plaintiff incurred and/or will continue to incur costs for counseling and
 18 psychological treatment, and has lost earning capacity to his damage in an amount to be
 19 proved at trial.

20 **VI. SECOND CAUSE OF ACTION**
 21 **(Intentional Infliction of Emotional Distress)**

22 6.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under
 23 this count and further allege:

24 6.2 Defendants knew, or in the exercise of reasonable care should have known,
 25 that tampering with a witness was unlawful and that such conduct as pressuring victims not to
 26

AMENDED COMPLAINT - 7 of 10
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disclose, would be harmful to the best interests and psychological well-being of child victims of sexual abuse, including plaintiff.

6.3 Defendants knew or should have known that pressuring plaintiff not to cooperate with the civil authorities' investigation of LEWIS would greatly exacerbate plaintiff's physical, emotional and psychological injuries and, in fact, the defendants' conduct greatly exacerbated plaintiff's physical, emotional and psychological injuries.

6.4 Defendant knew that plaintiff had been subjected to horrific sexual abuse at the hands of its Scoutmaster and Melchisedek Priest PAUL LEWIS and knew that plaintiff had and would continue to suffer emotional, psychological and physical injuries and that unless he received appropriate assistance from civil authorities, that his injuries would be greatly exacerbated and much more difficult to treat with the passage of time.

6.5 The Church, being more concerned about shielding itself from scandal and potential civil liability and intent on protecting the public image of its all-male Mormon priesthood at the expense of aiding a gravely injured child that was plaintiff, pressured plaintiff in to not cooperating with the civil authorities with full knowledge of or with reckless disregard of the emotional and psychological injuries its conduct was certain to inflict.

6.6 Defendants' conduct was an outrageous violation of societal norms and went so far beyond all possible bounds of decency, so as to be regarded as atrocious, and utterly intolerable in a civilized community, and resulted in severe emotional distress.

6.7 As a further result of the defendants' intentional conduct, plaintiff has incurred and/or will continue to incur costs for counseling and psychological treatment, and has lost earning capacity to his damage in an amount to be proved at trial. As a result of the defendants' conduct, plaintiff has suffered and will continue to suffer physical and emotional pain and dysfunction to his general, non-economic damage in an amount to be proved at trial.

AMENDED COMPLAINT - 8 of 10
(2:06-CV-00556TSZ)
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**VII. THIRD CAUSE OF ACTION
(Estoppel and Fraudulent Concealment)**

7.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count and further allege:

7.2 The Church defendants, and each of them, engaged in a plan of action to cover up incidents of the sexual abuse of minors by its Melchisedek priests and scout leaders and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to report incidents of abuse to law enforcement or child protection agencies, denial of abuse it had substantiated, the transfer of abusive Melchisedek priests and scoutmasters, coercion of victims and their families and by failure to seek out and redress the injuries these men had caused. Based on these actions, the defendants engaged in fraudulent concealment and are estopped from asserting defense of limitations.

**VIII. FOURTH CAUSE OF ACTION
(Civil Conspiracy)**

8.1 Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count and further allege:

8.2 Defendants and others conspired to cover up incidents of sexual abuse of minors by its Mormon priests and scout leaders, including LEWIS and to prevent disclosure, prosecution and civil litigation including, but not limited to: failure to report incidents of abuse to law enforcement or child protection agencies, denial of abuse it had substantiated, aiding criminal child molesters in evading detection, arrest and prosecution, allowing them to cross state and international borders for purposes of gaining access to uninformed parents whose innocent children could be sexually abused, failure to warn, and by failure to seek out and redress the injuries its Melchisedek priests and scoutmasters had caused. Based on these actions, the defendants conspired for the unlawful purpose of concealing and suppressing information on the danger and threat that scoutmaster and priests like LEWIS posed to unsuspecting children, including the plaintiff.

AMENDED COMPLAINT - 9 of 10
(2:06-CV-00556TSZ)
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IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter a judgment against both defendants, jointly and severally, and in plaintiff's behalf, for the following:

Deleted: the defendant

1. For special damages for medical treatment expenses, lost earnings, and lost earnings capacity, and the expenses of medication and other special expenses, both in the past and continuing into the future, in amounts to be determined at the time of trial;

2. For all general damages, for physical, mental and emotional injury and disturbance, and other disorders resulting from the acts complained of herein;

3. For attorney's fees, prejudgment interest, costs and exemplary damages allowed by RCW 9.68A.130 and other law; and

4. For such other and further relief as this Court determines just in the premises.

Dated this ____ day of May, 2006.

GORDON, THOMAS, HONEYWELL,
MALANCA, PETERSON & DAHEIM LLP

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Co-Counsel for Plaintiff

LAW OFFICES OF TIMOTHY D. KOSNOFF

By: _____
Timothy D. Kosnoff, WSBA No. 16586
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Co-Counsel for Plaintiff

AMENDED COMPLAINT - 10 of 10
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EXHIBIT C

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DUNN CARNEY

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12 Lori.Meiz@Bullivant.Com
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Attorneys for Corporation of the Presiding
Bishop of the Church of Jesus Christ of
Latter-Day Saints, The Church of Jesus Christ
Of Latter-Day Saints and Corporation of the
President of the Church of Jesus Christ of
Latter-Day Saints

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

15 JEREMIAH SCOTT,
16 Plaintiff,

Civil No. 98-366-AA

17 v.

18 CORPORATION OF THE
19 PRESIDING BISHOP OF THE
20 CHURCH OF JESUS CHRIST OF
21 LATTER-DAY SAINTS, a Utah
22 corporation sole; GREGORY LEE
23 FOSTER, an individual; THE
24 CHURCH OF JESUS CHRIST OF
25 LATTER-DAY SAINTS, a Utah
26 corporation sole; THE
CORPORATION OF THE
PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation sole,
Defendants.

Page 1 - CHURCH DEFENDANTS' REPLY ON THEIR MOTION FOR JUDICIAL
DETERMINATION OF DIVERSITY JURISDICTION

U.S. DISTRICT COURT
DISTRICT OF OREGON
Portland, Oregon 97204
Telephone (503) 725-4371

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Plaintiff's Response Memorandum succinctly states the sole issue

1 now before this Court for decision: "If the Mormon Church is, in fact, an
2 unincorporated association, plaintiff concedes that there would not be
3 complete diversity." (Plaintiff's Response to Church Defendants' Motion for
4 Judicial Determination of Diversity Jurisdiction ("Plaintiff's Response" at
5 p. 2). Plaintiff argues that The Church of Jesus Christ of Latter-Day Saints is
6 not an unincorporated association, and wrongly asserts that in the case of The
7 Church of Jesus Christ of Latter-Day Saints v. Brown, 764 P2d 759 (Ariz.
8 App. 1988), the LDS Church "admitted at the trial court level that it was a
9 'Utah corporation (sole)'." (Plaintiff's Response at 3). This assertion not
10 only contradicts the factual record in the Brown case, but is repudiated by the
11 very document which plaintiff attaches as Exhibit 3 to his Response — the
12 Church's Answer in the Brown case. The unincorporated Church had been
13 sued as "The Church of Jesus Christ of Latter-Day Saints, a corporation." As
14 the Court can see from Paragraph 1 of that Answer (attached hereto as
15 Exhibit 1), the unincorporated Church, rather than admitting that it was a
16 corporation sole as plaintiff herein wrongly suggests, explicitly stated "the
17 true name of this defendant is THE CORPORATION OF THE PRESIDENT
18 OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah
19 corporation (sole)." (capitalization in original). No "judicial admissions"
20 were made by the Church that it was in fact a corporation; rather, the Church
21 corrected plaintiffs' erroneous naming of the wrong defendant by answering
22 in the name of the proper defendant in that action.
23 Plaintiff herein suggests that "documentation or sworn affidavits"
24 would assist it in determining the Church's status. Such documentation is
25 attached. Exhibits 2 and 3, respectively, are Certificates of Good Standing
26

Page 2 - CHURCH DEFENDANTS' REPLY ON THEIR MOTION FOR JUDICIAL
DETERMINATION OF DIVERSITY JURISDICTION

U.S. DISTRICT COURT
DISTRICT OF OREGON
Portland, Oregon 97204
Telephone (503) 725-4371

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1 For the two Defendants corporations named as parties to this lawsuit, The
 2 Corporation of the President of the Church of Jesus Christ of Latter-Day
 3 Saints ("COP"), and The Corporation of the Presiding Bishop of the Church
 4 of Jesus Christ of Latter-Day Saints ("CPB"). Exhibit 4 is an Affidavit of
 5 Wayne L. Liddell, Director of Risk Management. This Affidavit clearly
 6 establishes that although COP and CPB are Utah corporations sole, The
 7 Church of Jesus Christ of Latter-Day Saints is not, rather, it "is an
 8 unincorporated religious association with a worldwide membership of
 9 approximately 10 million members, including members in all fifty states."
 10 (Liddell Affidavit, Exhibit 4 at 14).

11 Once the defendant in a diversity suit has challenged the
 12 plaintiff's allegations of diversity of citizenship, and has met its burden of
 13 production, as defendants have here, the plaintiff has the burden of proving
 14 that diversity jurisdiction exists. Lee v. Moss, 797 F.2d 747, 751 (9th Cir.
 15 1986); Ganzen v. Goss, 302 F.2d 421 (8th Cir 1962); 1 Fed Proc L ed 1995,
 16 § 1.352. It is clear that plaintiff will be unable to satisfy this burden.

17 Defendants would like to reemphasize that they do not
 18 particularly wish to see this matter remanded to state court, and are content
 19 to proceed in federal court. However, lack of federal court jurisdiction is not
 20 waivable, and can be raised at any time, including by the Ninth Circuit
 21 sua sponte. Morongo Band of Mission Indians v. California State Board of
 22 Equalization, 849 F.2d 1197, 1199 (9th Cir 1988). Defendants would like the
 23 certainty of a court ruling on the propriety of federal court jurisdiction before
 24 proceeding further with this litigation.
 25

26 ¹ Indeed, Defendants would affirmatively represent to this court that the proper defendant
 herein is the unincorporated association the Brentwood Ward of the Portland Oregon Stake
 Page 3 - CHURCH DEFENDANTS' REPLY ON THEIR MOTION FOR JUDICIAL
 DETERMINATION OF DIVERSITY JURISDICTION

Attorneys for Defendants
 The Church of Jesus Christ of
 Latter-Day Saints
 Portland, Oregon 97204-3400
 Telephone: (503) 224-4571

CONCLUSION

1 For the reasons set forth above and in their original
 2 memorandum, Defendants move this Court to make a ruling on the diversity
 3 of the parties and the propriety of federal court jurisdiction before litigation
 4 proceeds further. If the Court decides that the presence of the LDS Church as
 5 a defendant destroys diversity jurisdiction, defendants would request that this
 6 Court provide Plaintiff with the opportunity to file an Amended Complaint
 7 dropping the LDS Church as a defendant and adding the Brentwood Ward. If
 8 Plaintiff chooses to do so, the parties will then proceed in federal court.

DATED this 10th day of November, 1998.

BULLIVANT HOUSEK BAILEY
 A Professional Corporation

By Stephen F. English, OSB #73084
Lori R. Metz, OSB #85286
Karen M. Vickers, OSB #91381

Attorneys for Corporation of the Presiding
 Bishop of the Church of Jesus Christ of Latter-
 Day Saints, The Church of Jesus Christ of
 Latter-Day Saints, and the Corporation of the
 President of the Church of Jesus Christ of
 Latter-Day Saints

19 of The Church of Jesus Christ of Latter-Day Saints. This is the unincorporated association of
 20 which plaintiff was a member, the unincorporated association in which the allegedly
 21 negligent acts occurred, and the unincorporated association of which Gregory Lee Foster, a
 22 defendant in this action, was the local lay leader (bishop). As Defendants have suggested to
 23 Plaintiff before, simply amending the complaint to substitute the Brentwood Ward as
 24 Defendant would eliminate any jurisdictional problems, as all members of the Brentwood
 25 Ward are Oregon residents.
 26

Page 4 - CHURCH DEFENDANTS' REPLY ON THEIR MOTION FOR JUDICIAL
 DETERMINATION OF DIVERSITY JURISDICTION

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 Latter-Day Saints
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MONBLEAU VERMOREL & TURLEY, P.C.

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(602) 224-1444FILED
2003 OCT 11 PM 4:45

ATTORNEYS FOR Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

CYNTHIA BROWN, as Guardian
for ADRIENE LEIGH BROWN,

Plaintiff,

NO. C 517976

ANSWER

-vs-

KENNETH RAY and WETA RAY,
husband and wife; THE CHURCH
OF JESUS CHRIST OF LATTER
DAY SAINTS, a corporation,

Defendants.

PAID ANSWER

Defendant, THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation (sole), for its Answer to plaintiff's Complaint, admits, denies and alleges as follows:

I

As to paragraph I, admits only that the true name of this defendant is THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation (sole) and was acting at all times material through its duly authorized agents and employees, but is without sufficient information upon

EXHIBIT 19

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which to form a belief as to the truth or falsity of the allegations contained in paragraph I and therefore denies the same.

II

As to paragraphs II and III, this defendant is without sufficient information upon which to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

III

As to Counts One, Two, and Three, consisting of paragraphs IV through VIII, XI through XV, and XVII through XXII, this defendant alleges that if such paragraphs do state a claim for relief as against this answering defendant, then the allegations contained therein are denied in their entirety.

IV

As to Count Four, this defendant incorporates by reference its answers to the previous allegations of plaintiff's Complaint herein.

V

As to paragraph XX, this defendant admits only that during the early part of March 1984, it did obtain in a privileged and confidential setting, certain information regarding Kenneth Ray's abuse and/or assault of minor children, including girls, and further alleges that on or about March 14, 1984, it did report such information to the appropriate authorities, but denies the other allegations contained in paragraph XX.

-2-

EXHIBIT 19

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VI

As to paragraph XXI, admits only that the defendant Church, through its duly authorized agents and employees, did interview and/or counsel and take certain ecclesiastical action to prevent defendant Kenneth Ray from abusing and assaulting children, but otherwise denies the allegations contained in paragraph XXI.

VII

As to paragraphs XXII, XXIII, XXIV, XXV, and XXVI, this defendant denies all allegations contained therein.

VIII

This defendant denies each and every other allegation of Count Four of the Complaint not expressly admitted or otherwise pleaded to.

IX

This defendant alleges that Count Four, as framed, or at all, fails to state a claim upon which relief can be granted, as alleged or at all.

X

As an affirmative defense, this defendant alleges that it is immune from this type of claim and/or not liable therefor, including, but not limited to, the protection afforded this defendant by the First Amendment of the United States Constitution regarding the free exercise of religion, which right is also afforded to this defendant by the Constitution of the State of Arizona.

XI

As further affirmative defenses, this defendant asserts the doctrine of privilege, including but not limited to the priest-

-3-

EXHIBIT 1 Pg 3 of 4

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penitent privilege; the church is not a "person" within the meaning of A.R.S. §13-3620 which statute is not applicable to this defendant; the doctrine of assumption of risk, contributory negligence, and/or comparative negligence by plaintiff's guardian acting for or on behalf of the plaintiff, estoppel, including but not limited to collateral estoppel and/or res judicata, statute of limitations, laches, lack of proximate cause, and superseding cause.

WHEREFORE, defendant THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, prays that the Complaint be dismissed and that plaintiff take nothing thereby, for its costs incurred herein together with interest at the highest rate allowed by law, and for such other and further relief as the Court deems just and proper.

DATED this 11th day of October, 1985.

MONTEAU, VERREIRE & TURLEY, P.C.

By: 
Kent E. Turley
340 E. Palm Lane, Ste. 300
Phoenix, Arizona 85004
Attorneys for Defendant The Corporation of the President of the Church of Jesus Christ of Latter Day Saints

-4-

EXHIBIT 1 Pg 4 of 4

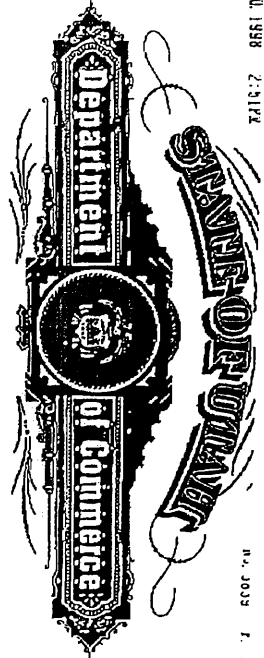
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CERTIFICATION OF EXISTENCE AND GOOD STANDING STATUS

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL
CODE HEREBY CERTIFIES THAT

CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

is a Utah corporation and is qualified to transact business in the State of Utah, and that its most recent annual report required by Utah Code Annotated Section 16-10a-1607 has been filed, and Articles of Dissolution have not been filed. The Corporation was duly incorporated in Utah pursuant to Utah Code Annotated Section 16-10a-203 on **NOVEMBER 26, 1923** and is currently in good standing, as appears in the records of the Division.

This certification is not intended to reflect the financial condition, business activity or practices of this corporation.

File Number: **CO 016041**



Dated this 29th day
of October, 19 98.

Lorena P. Rillo
Division Director of
Corporations and Commercial Code

EXHIBIT 2 Pg. 1 of 1
PAGE: 03

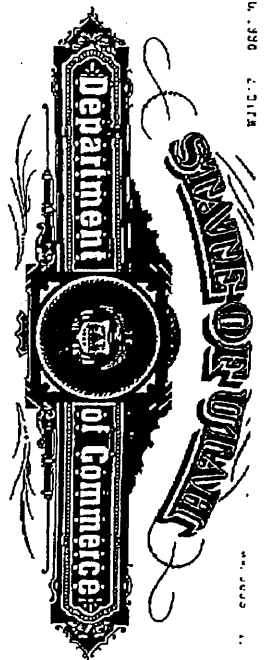
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CERTIFICATION OF EXISTENCE AND GOOD STANDING STATUS

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL
CODE HEREBY CERTIFIES THAT

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY

is a Utah corporation and is qualified to transact business in the State of Utah, and that its most recent annual report required by Utah Code Annotated Section 16-10a-1607 has been filed, and Articles of Dissolution have not been filed. The Corporation was duly incorporated in Utah pursuant to Utah Code Annotated Section 16-10a-203 on **JULY 13, 1916** and is currently in good standing, as appears in the records of the Division.

This certification is not intended to reflect the financial condition, business activity or practices of this corporation.

File Number: **CO 011993**



Dated this 29th day
of October, 19 98.

Lorena P. Rillo
Division Director of
Corporations and Commercial Code

EXHIBIT 2 Pg. 1 of 1
PAGE: 03